

## EMIGRANT WILDERNESS PRESERVATION ACT OF 2001

---

SEPTEMBER 6, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. HANSEN, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 434]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 434) to direct the Secretary of Agriculture to enter into a cooperative agreement to provide for retention, maintenance, and operation, at private expense, of the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Emigrant Wilderness Preservation Act of 2001”.

#### SEC. 2. OPERATION AND MAINTENANCE OF CERTAIN WATER IMPOUNDMENT STRUCTURES IN THE EMIGRANT WILDERNESS, STANISLAUS NATIONAL FOREST, CALIFORNIA.

(a) COOPERATIVE AGREEMENT FOR MAINTENANCE AND OPERATION.—The Secretary of Agriculture shall enter into a cooperative agreement with a non-Federal entity described in subsection (c), under which the entity will retain, maintain, and operate at private expense the water impoundment structures specified in subsection (b) that are located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93–632 (88 Stat. 2154; 16 U.S.C. 1132 note).

(b) COVERED WATER IMPOUNDMENT STRUCTURES.—The cooperative agreement required by subsection (a) shall cover the water impoundment structures located at the following:

- (1) Cow Meadow Lake.
- (2) Y-Meadow Lake.
- (3) Huckleberry Lake.
- (4) Long Lake.

- (5) Lower Buck Lake.
- (6) Leighton Lake.
- (7) High Emigrant Lake.
- (8) Emigrant Meadow Lake.
- (9) Middle Emigrant Lake.
- (10) Emigrant Lake.
- (11) Snow Lake.
- (12) Bigelow Lake.

(c) ELIGIBLE ENTITY.—The following non-Federal entities are eligible to enter into the cooperative agreement under subsection (a):

- (1) A non-profit organization as defined in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).
- (2) The State of California or a political subdivision of the State.
- (3) A private individual, organization, corporation, or other legal entity.

(d) RESPONSIBILITIES OF THE SECRETARY.—

(1) MAP.—The Secretary of Agriculture shall prepare a map identifying the location, size, and type of each water impoundment structure covered by the cooperative agreement under subsection (a).

(2) TERMS AND CONDITIONS OF AGREEMENT.—The Secretary shall prescribe the terms and conditions of the cooperative agreement, which shall set forth the rights and obligations of the Secretary and the non-Federal entity. At a minimum, the cooperative agreement shall—

(A) require the non-Federal entity to operate and maintain the water impoundment structures covered by the agreement in accordance with a plan of operations approved by the Secretary;

(B) require approval by the Secretary of all operation and maintenance activities to be conducted by the non-Federal entity;

(C) require the non-Federal entity to comply with all applicable State and Federal environmental, public health, and safety requirements; and

(D) establish enforcement standards, including termination of the cooperative agreement for noncompliance by the non-Federal entity with the terms and conditions.

(3) COMPLIANCE.—The Secretary shall ensure that the non-Federal entity remains in compliance with the terms and conditions of this section and the cooperative agreement.

(e) RESPONSIBILITIES OF THE NON-FEDERAL ENTITY.—The non-Federal entity shall be responsible for—

(1) carrying out its operation and maintenance activities with respect to the water impoundment structures covered by the cooperative agreement under subsection (a) in conformance with this section and the cooperative agreement; and

(2) the costs associated with the maintenance and operation of the structures.

(f) PROHIBITION ON USE OF MECHANIZED TRANSPORT AND MOTORIZED EQUIPMENT.—The non-Federal entity may not use mechanized transport or motorized equipment—

(1) to operate or maintain the water impoundment structures covered by the cooperative agreement under subsection (a); or

(2) to otherwise conduct activities in the Emigrant Wilderness pursuant to the cooperative agreement.

(g) EXPANSION OF AGREEMENT TO COVER ADDITIONAL STRUCTURES.—In the case of the six water impoundment structures located within the boundaries of the Emigrant Wilderness, but not specified in subsection (b), the Secretary of Agriculture may expand the scope of the cooperative agreement under subsection (a), with the consent of the State of California and the other party to the agreement, to include one or more of these structures, subject to the same terms and conditions as apply to the structures specified in subsection (b).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Agriculture \$20,000 to cover administrative costs incurred by the Secretary to comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in carrying out this section.

Amend the title so as to read:

A bill to direct the Secretary of Agriculture to enter into a cooperative agreement to provide for retention, maintenance, and operation, at private expense, of 12 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, and for other purposes.

## PURPOSE OF THE BILL

The purpose of H.R. 434, as ordered reported, is to direct the Secretary of Agriculture to enter into a cooperative agreement to provide for the retention, maintenance, and operation, at private expense, of 12 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, and for other purposes.

## BACKGROUND AND NEED FOR LEGISLATION

Between 1931 and 1954, 18 small dams and concrete weirs were constructed throughout the Stanislaus National Forest, California, in order to provide lakes and ponds for enhanced fish and wildlife habitat. These dams were built from native rock so as to blend in naturally with their surroundings. Most of these dams do not exceed two feet in height, and the largest dam is approximately seven feet tall. In 1974, the Emigrant Wilderness Act (P.L. 93-632) was passed, placing these structures within a federally designated wilderness area. Man-made structures and motorized activity are generally prohibited within federally-designated wilderness areas, causing some to call into question the current and future status of these structures.

The House Report for the 1974 Emigrant Wilderness Act stated that these existing structures were to be retained:

Within the area recommended for wilderness designation, there are drift fences (5 miles) which will be maintained, but several cabins and barns will be removed within ten years. Two snow cabins will be retained. *The weirs and dams will likewise be retained.*

(House Report No. 93-989, pg. 10, April 11, 1974). (emphasis added).

As amended in Committee, this legislation provides specific authority for the Secretary of Agriculture and the U.S. Forest Service to enter into a cooperative agreement with a non-federal entity for the continued maintenance of 12 of the 18 specifically named structures. The agreement shall require that any maintenance be done under terms and conditions established by the Secretary, at private expense, and without the use of mechanized transport or motorized equipment. The legislation would grant the Secretary of Agriculture discretion to expand the agreement to include the remaining six structures. Similar legislation passed the House in the 105th Congress by a vote of 424 to 2, and again in the 106th Congress by voice vote under suspension of the rules. However, both of these measures failed to be acted upon in the Senate.

## COMMITTEE ACTION

H.R. 434 was introduced by Congressman John T. Doolittle (R-CA) on February 6, 2001. The bill was referred to the Committee on Resources on February 15, 2001, and within the Committee to the Subcommittee on Forests and Forest Health on April 25, 2001. On June 21, 2001, the Subcommittee held a hearing and markup on the bill. Congressman Scott McInnis (R-CO) offered an amendment in the nature of a substitute which reduced the number of dams and weirs named under the original legislation from 18 to 12.

The amendment in the nature of a substitute was adopted by voice vote. The bill, as amended, was then forwarded to the Full Committee by voice vote. On June 27, 2001, the Full Resources Committee met to consider the bill. There were no further amendments offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3, of the Constitution of the United States, grants Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to direct the Secretary of Agriculture to enter into a cooperative agreement to provide for the retention, maintenance, and operation, at private expense, of 12 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 2, 2001.*

Hon. JAMES V. HANSEN,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 434, the Emigrant Wilderness Preservation Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 434—Emigrant Wilderness Preservation Act of 2001*

CBO estimates that enacting H.R. 434 would have no significant impact on the federal budget. Enacting the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 434 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

H.R. 434 would provide for the maintenance and operation of 18 concrete dams and weirs in the Emigrant Wilderness within the Stanislaus National Forest in California. According to the Forest Service, in November 2000 the agency and the California Department of Fish and Game agreed to a joint strategy for future management of the dams, emphasizing the need to maintain eight of the structures. H.R. 434 would direct the Secretary of Agriculture to enter into a cooperative agreement with a nonfederal entity to retain, maintain, and operate at private expense 12 of the 18 dams. Under the bill, the Secretary could expand the agreement to include the remaining six structures.

H.R. 434 would authorize the appropriation of \$20,000 to cover the costs of environmental reviews. Based on information from the Forest Service, CBO estimates that the total cost to conduct such environmental analyses could exceed the authorized amount. Nevertheless, we estimate that implementing the bill would cost less than \$50,000 over the 2002–2006 period, assuming appropriation of the necessary amounts.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.